

<p align="center"><b>MOTOR FUEL, MOTOR CARRIER, TOBACCO, SEVERANCE AND PUBLIC UTILITIES TAXES</b></p>
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## MOTOR FUEL, MOTOR CARRIER, TOBACCO, SEVERANCE AND PUBLIC UTILITIES TAXES

### MOTOR FUEL TAX

#### General Information

Public Act (PA) 403 of 2000 incorporates a dyed diesel fuel program that closely parallels federal regulations. Diesel fuel containing red dye in accordance with federal standards is exempt from the motor fuel tax unless it is used for taxable purposes. Use of dyed diesel fuel in cars and trucks on Michigan's public roads and highways is prohibited unless a specific exception from the prohibition is provided by the Act.

Undyed diesel fuel is taxed at the current rate of 15 cents per gallon.

Undyed diesel fuel used for nontaxable purposes may be purchased exempt of the tax **in amounts of 100 gallons or less per sale.**

The definition of gasoline includes alcohol (*refer to the definition of alcohol in the "Definitions of Fuel Types" section.*) Alcohol is to be reported and taxed in the same manner as any other product included in the definition of gasoline, regardless of whether or not it has been blended with gasoline. If the person uses alcohol upon which tax has been paid for nontaxable purposes, a claim for refund may be filed subject to requirements set by the Act and procedures prescribed by the Department.

PA 403 specifies various reporting requirements. Some returns are filed monthly, some quarterly, and some annually. Payment of tax is due with the returns unless otherwise specified in the Act. Tax is due on some imported loads within three days.

The following is a brief overview of PA 403.

**Note:** The Department has prepared a supplemental text containing additional information about Motor Fuel and Motor Carrier licensing and tax reporting. A limited supply is available at the Tax Schools. You may also contact the Department of Treasury for a copy by sending a written request to: Michigan Department of Treasury, Customer Contact Division, Special Taxes Section, Lansing, Michigan 48922. The phone number is (517) 636-4600, and the fax number is (517) 636-4593.

#### Motor Fuel Tax, Tax Rates and Allowance for Gasoline Sales

PA 403 neither increased nor decreased the rate of tax on gasoline or diesel fuel.

Tax applies upon removal from the bulk transfer/terminal system or upon importation.

The tax rate for gasoline is 19 cents per gallon.

The Act permits a Supplier to deduct 1.5% of the taxable gallons of **gasoline** to allow for the cost of remitting the tax. The Supplier is required to pass on the full allowance when making taxable sales to other Suppliers or wholesale distributors. If a Supplier or wholesale distributor makes taxable sales of **gasoline** to retailers, one-third of the 1.5% of taxable gallons allowed (.5%) is to be passed on to the retailer.

The Aeronautics Code imposes tax on aviation fuel. The tax is to be collected in the same manner and at the same time as gasoline tax.

The tax rate for aviation fuel is 3 cents per gallon.

The 1.5% allowance also applies to aviation fuel because it is collected in the same manner and at the same time as gasoline.

The tax rate for diesel fuel is 15 cents per gallon.

Use of **dyed** diesel fuel in watercraft is **not prohibited** and is taxable under PA 451 of 1994, as amended, the Natural Resources and Environmental Protection Act. If dyed diesel fuel is sold for use in a vessel, the seller must collect the tax at a rate of 15 cents per gallon and remit the full 15 cents per gallon on the Marine Retail Diesel Dealer return. The seller must remit the full 15 cents per gallon because they acquired the dyed diesel fuel tax-free from their fuel supply source.

### **Definitions of Fuel Types**

PA 403 includes revisions to the definitions of fuel types. The following definitions should be read carefully as they affect reporting requirements.

**Motor Fuel.** Gasoline; diesel fuel; kerosene; a mixture of gasoline, diesel fuel, or kerosene; or a mixture of gasoline, diesel fuel, or kerosene and any other substance.

**Diesel Fuel.** Any liquid other than gasoline that is capable of use as a fuel or a component of a fuel in a motor vehicle that is propelled by a diesel-powered engine or in a diesel-powered train. Diesel fuel includes number 1 and number 2 fuel oils, kerosene, **dyed diesel fuel**, and mineral spirits. Diesel fuel also includes any blendstock or additive that is sold for blending with diesel fuel, and any liquid prepared, advertised, offered for sale, sold for use as, or used in the generation of power for the propulsion of a diesel-powered engine, airplane, or marine vessel. An additive or blendstock is presumed to be sold for blending unless a certification is obtained for federal purposes that the substance is for a use other than blending for diesel fuel.

**Dyed Diesel Fuel.** Diesel fuel that is dyed in accordance with Internal Revenue Service rules or pursuant to any other Internal Revenue Service requirements, including any invisible marker requirements.

**Gasoline.** Includes gasoline, **alcohol**, gasohol, casing head or natural gasoline, benzol, benzine, naphtha, and any blendstock or additive that is sold for blending with gasoline other than products typically sold in containers of less than five gallons. Gasoline also includes a liquid prepared, advertised, offered for sale, sold for use as, or used in the generation of power for the propulsion of a motor vehicle, airplane, or marine vessel, including a product obtained by blending together any one or more products of petroleum, with or without another product, and regardless of the original character of the petroleum products blended, if the product obtained by the blending is capable of use in the generation of power for the propulsion of a motor vehicle, airplane, or marine vessel. The blending of all of the above named products, regardless of their name or characteristics, shall conclusively be presumed to have been done to produce motor fuel, unless the product obtained by the blending is entirely incapable of use as motor fuel. Gasoline also includes transmix. Gasoline does not include diesel fuel. An additive or blendstock is presumed to be sold for blending unless a certification is obtained for federal purposes that the substance is for use other than blending for gasoline.

**Note:** The definition of gasoline includes methanol sold for blending with gasoline or for use on the road.

**Alcohol.** Fuel grade **ethanol** or a mixture of fuel grade ethanol and another product.

### **Licensing**

The following entities are required to be licensed under PA 403:

- Terminal Operators
- Suppliers and Permissive Suppliers
- Bonded, Occasional, and Tank Wagon Operator Importers
- Exporters
- Blenders
- Carriers
- Marine Retail Diesel Dealers
- Aviation Fuel Registrant
- Transporters
- LPG Dealers

**Note:** The above entities are defined in the supplemental text.

A licensed Supplier may operate as a Terminal Operator, Permissive Supplier, Importer, Exporter or Blender without obtaining separate licenses for these operations. If a Supplier sells marine diesel fuel to end-users, the Supplier must be licensed as a Marine Retail Diesel Dealer.

Licenses are not renewed annually and are **not** transferable. Some licensees **are required** to submit surety bonds. In lieu of a surety bond the Department may accept other forms of securities. While annual relicensing is no longer required, a licensee may be required to periodically submit information concerning their financial status.

A person who purchases aviation fuel for **resale** must obtain an Aviation Fuel Registrant Certificate from the Department. The Certificate does **not** allow the registrant to purchase aviation fuel exempt of the 3-cents-per-gallon tax imposed by the Aeronautics Code.

A person who purchases motor fuel from a licensed Supplier may request authorization to act as an Eligible Purchaser. An authorized Eligible Purchaser Agreement allows the purchaser to defer payment of the motor fuel tax to the Supplier until one business day before the Supplier is required to remit the tax to the Department. An Eligible Purchaser **may** be required to provide a surety bond.

### **General Reporting Requirements**

Tax returns must be filed by the due date even if no tax is due. Returns are due with supporting schedules and full payment, if applicable, on the 20<sup>th</sup> of the month following the close of a reporting period. If the 20<sup>th</sup> of the month falls on a weekend or legal holiday, the returns are due on the next business day.

**Carriers** who operate pipelines or marine vessels to transport motor fuel above the terminal rack are not required to be licensed under PA 403. They are, however, required to file monthly reports of motor fuel activity.

### **Schedule for Filing Returns**

Monthly Filers:

- Carriers
- Terminal Operators (also required to file annual returns)
- Suppliers
- Permissive Suppliers
- Blenders

Quarterly Filers:

- Bonded Importers\*
- Occasional Importers\*\*
- Tank Wagon Operator-Importers
- Marine Retail Diesel Dealers
- Transporters
- LPG Dealers
- Exporters

\*Bonded importers are required to remit **monthly estimated payments** with form 3819 BONDED IMPORTER MONTHLY ESTIMATED PAYMENT by the 20<sup>th</sup> of the month following the close of the previous month. They must then file **quarterly returns** that reconcile all activity for the reporting quarter.

**\*\*Occasional Importers** are required to remit **payment with form 3778 3-DAY PAYMENT VOUCHER within 3 days** after the date taxable fuel was delivered into Michigan from outside the United States, or the date that a valid import verification number was obtained from the Department, whichever is earlier. They must then file **quarterly returns** that reconcile all activity for the reporting quarter.

**Note:** Suppliers, Permissive Suppliers and Terminal Operators are required to file returns electronically. Suppliers are required to pay the tax due on their return by either ACH debit or credit. Applications are available on the Motor Fuel Web site. Additional electronic filing information can be found at [www.michigan.gov/motorfuelefile](http://www.michigan.gov/motorfuelefile).

## **Imports**

If fuel meant for delivery to Michigan is purchased from a terminal facility located in another state or country, and the Supplier from whom the fuel is purchased is licensed as a Supplier or Permissive Supplier with the State of Michigan, the purchaser must pay the Michigan tax at the time of purchase. The Terminal Operator is required to issue a shipping paper indicating that the fuel is destined for Michigan and that Michigan tax has been paid or accrued to the Supplier. If these requirements have been met the purchaser does **not** need to obtain an Importer license.

A person who imports motor fuel from a **bulk plant in another state** must be licensed as a **Tank Wagon Operator-Importer**.

A person who imports motor fuel from **outside the United States**, and who has **not prepaid** the Michigan motor fuel tax to a licensed Supplier or Permissive Supplier must be licensed as either a Bonded Importer or an Occasional Importer.

## **Exports**

The Motor Fuel Tax Act imposes tax on gasoline and diesel fuel upon importation or removal across a terminal rack. Under certain circumstances, including some situations where the fuel is exported, gasoline and diesel fuel are exempt from the tax.

Michigan motor fuel tax is not applicable when gasoline or diesel fuel are exported by a Michigan licensed Supplier who is also licensed in the destination state. This is true when a Michigan licensed Supplier who is also licensed in the destination state removes the fuel from its terminal storage and exports it directly, **and** when the Michigan licensed Supplier sells the fuel to another Michigan licensed Supplier for export when the receiving Supplier is also licensed in the destination state.

When gasoline or diesel fuel are sold by a Michigan licensed Supplier to a licensed Exporter or to another person for immediate export, Michigan motor fuel tax will **not** be charged **if** proof is available in the form of a terminal-issued shipping paper indicating that the fuel is to be delivered to a location outside of Michigan, **and** the Supplier has pre-collected the destination state tax from the purchaser.

In some cases the destination state's statute does not provide for pre-collection of their tax by the Supplier. When gasoline or diesel fuel are sold by a Michigan Supplier to an Exporter or another person for delivery to a state that does not allow pre-collection, Michigan tax must be charged. The Supplier must issue, or instruct the terminal operator to issue, a shipping paper that meets the requirements of Section 103(1)(d) indicating the state to which the fuel will be delivered and specifying that Michigan tax has been paid or accrued to the Supplier. If the tax is then paid by the purchaser to the destination state, the purchaser may submit proof to the Department and request a refund of the Michigan motor fuel tax.

There are also some instances where the destination state does not impose tax on a type of fuel that is being purchased for export to their state. In these cases the Supplier will not charge the Michigan motor fuel tax **when the purchaser is a Michigan licensed Exporter**. The Supplier will issue, or instruct the terminal operator to issue, a shipping paper that meets the requirements of Section 103(1)(d) indicating the state to which the fuel will be delivered, specifying that the delivery is subject to the statutory requirements of the destination state, and that Michigan tax has not been paid or accrued. **If the purchaser is not a Michigan licensed Exporter the Supplier will charge the Michigan tax.**

### **Fuel Diversions**

PA 403 requires that the Michigan motor fuel tax be paid when fuel is diverted from its original state of destination other than Michigan for delivery to a location in Michigan. If fuel originally destined for Michigan is diverted to a location outside of Michigan, the Act provides for refunds under certain circumstances.

### **Fuel Diversion Numbers**

When fuel is diverted either into or out of Michigan, the owner of the fuel, or the shipper if other than the owner, must obtain a fuel diversion number **before the diversion takes place**. To obtain the fuel diversion number the owner or shipper must call 1-888-367-1600. The interactive voice system is available 24 hours a day, 7 days a week. The diversion number assigned to the caller must be written on the shipping papers.

***Note:** Procedures for reporting and remitting tax or requesting refunds are provided in the supplemental text.*

### **Shipping Papers**

Refinery or terminal operators and operators of bulk plants, other than bulk plant operators who deliver fuel into tank wagons, must issue automated, machine-generated shipping papers that meet all of the requirements of the Act.

In the event of an unforeseen circumstance that prevents the issuance of automated, machine-generated shipping papers, the refinery or terminal operator or bulk plant operator must contact the Department at 1-888-213-0676 to obtain a **Service Interruption Authorization Number**. The number allows them to manually issue shipping papers for a period of not more than 24 hours.

### **Invoicing**

Invoices for sales of motor fuel must specifically indicate the amount of Michigan motor fuel tax charged.

### **Recordkeeping**

Shipping papers must be maintained at the delivery location for 30 days. After the initial 30 days, but not for less than four years, shipping papers may be maintained at either the delivery location or another location.

Complete and accurate records of all transactions must be retained for at least four years.

### **Claims for Refund of the Motor Fuel Tax**

Under PA 403, taxes on gasoline, diesel fuel and LPG may qualify for a full or partial refund. Tax on aviation fuel may qualify for a partial refund under the Aeronautics Code. Tax on marine fuel may qualify for a refund under the Natural Resources and Environmental Protection Act.

Persons who may file claims for refund of the motor fuel tax include, but may not be limited to:

- Persons who have paid the tax upon purchase but sell tax-free motor fuel to a governmental entity for use in vehicles owned and operated or leased and operated by the governmental unit. Exception: If the purchaser charges the motor fuel to a nonproprietary credit card issued to the governmental entity, the issuer of the card must bill the entity without the tax and file the claims.
- Persons who have paid the tax upon purchase but sell tax-free motor fuel to a nonprofit, private, parochial, or denominational school, college, or university for use in buses owned and operated or leased and operated by that purchaser for the transportation of students to and from school and school functions.
- Licensed Exporters who export fuel upon which they have paid the Michigan tax.
- End users who purchase fuel for use in implements of husbandry or for other nonhighway purposes.
- End users who purchase tax-paid motor fuel for use in certain passenger vehicles meeting specific conditions.



- Registered community action agencies.
- End users who purchase tax-paid motor fuel for use in motor vehicles with a common fuel supply tank from which fuel is drawn to both propel the vehicle and operate attached equipment.
- Airlines who use aviation fuel upon which tax has been paid in interstate, scheduled operations in accordance with the Aeronautics Code.
- Purchasers of tax-paid fuel for use in watercraft specifically exempted from the tax, as defined in the Natural Resources and Environmental Protection Act.
- Purchasers who paid the road tax on LPG and used it for purposes other than on the road, or if used by a governmental entity, or used by persons operating passenger vehicles meeting specific conditions.
- Persons who have paid the tax upon purchase on undyed bio-oil or undyed bio-diesel and subsequently have added dye, in accordance with Internal Revenue Service rules or pursuant to any other federal or Internal Revenue Service requirements, for resale for exempt use.
- Persons who have paid the tax upon purchase on K-1 kerosene, but make tax-free sales for exempt use, in amounts of 100 gallons or less per sale, from blocked pumps.
- Persons who have paid the tax upon purchase on undyed diesel fuel, but make tax-free sales for exempt use, in amounts of 100 gallons or less per sale.

### **Deadlines for Filing Claims for Refund**

Gasoline, diesel fuel, and LPG claims must be filed within 18 months of the date of purchase of the fuel.

Aviation fuel and marine fuel (gasoline and diesel) claims must be filed within six months of the date of purchase of the fuel.

### **Claim Forms**

A form used to request refund claim forms is available on the Treasury Web site at [www.michigan.gov/treasury](http://www.michigan.gov/treasury), or you may call (517) 636-4600 to request claim forms.

## **MOTOR CARRIER LICENSING AND REPORTING**

Persons operating “qualified motor vehicles” interstate must be licensed under the IFTA Articles of Agreement. In general, “qualified motor vehicles” are vehicles weighing in excess of 26,000 pounds or vehicles with 3 axles regardless of weight.

**Note:** For specifics in motor carrier licensing and tax reporting, see the motor carrier supplemental text.

## **SEVERANCE TAX**

### **General Information**

The Severance Tax is levied upon each producer engaged in the business of severing oil or gas from the soil. In most cases the common purchaser is responsible for withholding and remitting the tax.

Taxpayers are not required to be licensed.

Monthly tax returns are due on the 25<sup>th</sup> of the month following the close of each reporting period.

### **Tax Rates**

Severance tax rates are:

- Oil – 6.6% of gross cash market value
- Oil – Marginal or stripper wells – 4% of gross cash market value
- Gas – 5% of gross cash market value

There is a maximum fee of 1% of the gross cash market value on gas and oil. This fee may vary annually. For the latest fee information call the Customer Contact Division, Special Taxes Section, at (517) 636-4600.

## **TOBACCO PRODUCTS TAX**

### **General Information**

PA 327 of 1993 as amended, the Tobacco Products Tax Act, imposes tax upon the consumer of tobacco products; requires certain persons to collect and remit the tax for the consumer; and sets specific requirements for licensing, stamping, collecting, and remitting tax. The Act also provides for both civil and criminal penalties for violations.

## **Tax Rates**

Effective July 1, 2004 the tax rate for cigarettes is 100 mills per cigarette. A deduction of 1.50% is provided for Wholesalers and Unclassified Acquirers to allow for the cost of remitting the tax on cigarettes.

The tax rate for other tobacco products is 32% of wholesale price. A deduction of 1% is provided for Wholesalers and Unclassified Acquirers to allow for the cost of remitting the tax on tobacco products other than cigarettes.

## **Key Definitions**

**Tobacco Products.** Cigarettes, cigars, noncigarette smoking tobacco, or smokeless tobacco.

**Cigarette.** A roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any ingredient, which roll has a wrapper or cover made of paper or any other material.

**Noncigarette Smoking Tobacco.** Tobacco sold in loose or bulk form that is intended for consumption by smoking.

**Smokeless Tobacco.** Snuff, chewing tobacco, and any other tobacco that is intended to be consumed by means other than by smoking.

**Stamp.** A distinctive character, indication, or mark, as determined by the Department, attached or affixed to an individual package of cigarettes by mechanical device or other means authorized by the Department to indicate that the tax imposed under this Act has been paid.

**Wholesaler.** A person who purchases all or part of the tobacco products from the manufacturer, sells 75% or more to others for resale, and is required to maintain inventory of Michigan tobacco products at all times. The inventory of tobacco products may be stored in a licensed facility in any state, provided that the tobacco products are designated for Michigan inventory at the time of purchase, are segregated from inventory for other states, and written records are maintained. A Wholesaler may also be a chain store retailing tobacco products to consumers if 75% of their tobacco products are purchased from manufacturers. **A Wholesaler is responsible for affixing stamps to individual packages of cigarettes, or placing a prescribed marking on shipping containers of tobacco products other than cigarettes, prior to delivery, sale or distribution, and for remitting tax.**

**Unclassified Acquirer.** A person other than a transportation company or purchaser at retail from a retailer who imports or acquires tobacco products from a source other than a licensed Wholesaler or Secondary Wholesaler for use, sale or distribution. Also includes a person who receives cigars, noncigarette smoking tobacco, or smokeless tobacco directly from a manufacturer licensed under the Tobacco Products Tax Act, or from another source outside Michigan who is not licensed under this Act. A Wholesaler is not an Unclassified Acquirer. **An Unclassified Acquirer, including a Direct Buy Vendor, is responsible for affixing stamps to individual packages of cigarettes, or placing a prescribed marking on shipping containers of tobacco products other than cigarettes, prior to delivery, sale or distribution, and for remitting tax.**

**Note:** Secondary Wholesalers only purchase and sell tax-paid, pre-stamped products. Direct Buy Vendors purchase some or all of the tobacco products to be placed in their vending machines from manufacturers.

**Stamping Agent.** A licensed Wholesaler or Unclassified Acquirer other than a manufacturer who is authorized by the Department to affix stamps to individual packages of cigarettes on their own behalf, or on behalf of another licensed Wholesaler or Unclassified Acquirer other than a manufacturer.

**Wholesale Price.** The actual price paid for a tobacco product by a Wholesaler to a manufacturer, including any tax, but excluding any discounts or reductions.

## **Licensing**

Wholesalers, Transporters, Transportation Companies, and Unclassified Acquirers, including Direct Buy Vendors and manufacturers, must be licensed to report and remit tax, if applicable, directly to the State.

Secondary Wholesalers and Vending Machine Operators, other than Direct Buy Vendors, must be licensed, but may only purchase tobacco products with the tax included, and do not file tobacco products tax returns. Vending Machine Operators must obtain vending machine markers to be placed on all machines from which tobacco products are dispensed.

The license year for tobacco products tax is July 1 through June 30. Licenses must be renewed annually. Form 336 APPLICATION FOR A TOBACCO PRODUCTS TAX LICENSE must be filed to either obtain a new license or to renew a license.

Applicants for new or renewed Wholesaler and Unclassified Acquirer licenses must submit current financial statements, including the balance sheet, income statement, and accountant's notes with their applications. Wholesalers and Unclassified Acquirers may be required to provide surety bonds in amounts to be determined by the Department.

Applicants for vending machine operator's licenses, either new or renewed, must attach vending machine location lists to their license applications.

First-time applicants are required to submit evidence of a minimum net worth of \$25,000, proof that the applicant owns or leases a secure nonresidential facility for the purpose of receiving and selling tobacco products, proof of United States citizenship or eligibility to obtain employment, and any other information the Department may deem necessary.

First-time applicants must also submit the following forms:

- 323 APPLICATION FOR A NONCIGARETTE TOBACCO PRODUCTS STAMP (Wholesalers and Unclassified Acquirers of tobacco products other than cigarettes)
- 3354 SIGNATURE AUTHORIZATION FOR MICHIGAN CIGARETTE TAX STAMPS (Wholesalers and Unclassified Acquirers of cigarettes, if license application is approved)
- 3371 STAMPING AGENT AGREEMENT (Wholesalers and Unclassified Acquirers of cigarettes who wish to have an agent affix stamps for them, if license application is approved).

#### License Fees

Wholesaler	\$100
Secondary	25
Unclassified Acquirer*	
Manufacturer	100
Retail importer/mail order buyer – other tobacco products	10
Retail importer – cigarettes	100
Direct buy vendor	100
State of Michigan prison stores	None
Michigan retailer buying OTP from out-of-state distributors not licensed in MI or manufacturers licensed in Michigan*	10
Transportation Company	5
Transporter	50
Vending Machine Operator (other than direct buy vendor)	25

\*The Act requires importers to be licensed as Unclassified Acquirers and to pay the tax upon importation. Many of the tobacco products other than cigarettes are specialty items for which there is no distributor in Michigan. Retailers are only able to purchase these products from supply sources located outside Michigan. To ensure that tax is remitted, the Department will license retailers who wish to purchase **tobacco products other than cigarettes** from unlicensed out-of-state distributors or licensed manufacturers as Unclassified Acquirers.

Branch location fees are ¼ of the main location fee. A branch location is a place of business other than the main location at which tobacco products are received and/or stored. An individual vending machine is not a branch location.

### **Stamping of Packages of Cigarettes and Shipping Containers of Non-Cigarette Tobacco Products**

Licensed Wholesalers and Unclassified Acquirers (or their authorized Stamping Agents) of cigarettes are required to place stamps obtained from the Department on the bottom of individual packages of cigarettes to be sold within Michigan. The stamp must be in an aggregate denomination equal to the amount of tax applicable to the contents of each package.

Licensed Wholesalers and Unclassified Acquirers (or their authorized Stamping Agents) of non-cigarette tobacco products are required to place a stamped marking on all shipping containers of non-cigarette tobacco products to be sold within Michigan. The stamp must be obtained from the Department.

The Act provides for civil and criminal penalties for noncompliance. The Department and its authorized agents may seize tobacco products that are not stamped in accordance with the Act.

Form 3354 must be filed with the Department before stamp orders can be processed. The form, which must be signed by a corporate officer or owner of the business, identifies persons who are authorized to order stamps, as well as persons who are authorized to accept delivery of stamps. These persons may be authorized Stamping Agents.

Stamping Agents, who must be licensed Wholesalers or Unclassified Acquirers under the Act, may be appointed by licensed Wholesalers or Unclassified Acquirers who do not choose to stamp their own tobacco products. Form 3371 must be filed with the Department by the person wishing to assign an agent.

Form 3345 must be completed and faxed or mailed to the Department to obtain stamps. Stamps will be shipped to the stamper.

### **Reporting**

Wholesalers, Unclassified Acquirers, Transporters and Transportation Companies are required to file monthly tax returns (schedules and form 322 MICHIGAN TOBACCO PRODUCTS RETURN) with full payment of the tax due for sales of tobacco products. The report must account for all tobacco products and stamping activity for each reporting period. Returns are due on the 20<sup>th</sup> of the month following the close of the report month and must be filed even if no tax is due. Filing instructions are provided with the return forms and schedules.

Manufacturers, who must be licensed as Unclassified Acquirers, are only responsible for tax on promotional products for which their customers have not been charged, but must file a monthly return even if no tax is due. A listing of all sales to Michigan licensees must be filed monthly as well.

## **CATCH Hotline**

A toll-free hotline is available for tips regarding the sale of smuggled tobacco products. When tips concern the interstate movement of tobacco products, all states involved in the scheme will be notified. The hotline number is 1-800-29CATCH, or 1-800-292-2824.

## **Tobacco Master Settlement Agreement**

On November 23, 1998 Michigan signed the Master Settlement Agreement (MSA) along with 45 other states, the District of Columbia, several territories, and a number of tobacco product manufacturers.

Under the MSA, tobacco product manufacturers who signed the MSA agree to deposit funds into an escrow account for subsequent distribution to the settling states. The purpose of the funds is to settle existing and potential suits filed by the states against the tobacco product manufacturers.

On December 28, 1999 the Michigan Legislature enacted PA 244. The Act requires that tobacco product manufacturers either participate in the MSA or, as a nonparticipating manufacturer (NPM), deposit funds into an escrow account based on the number of cigarettes sold in each calendar year.

For purposes of PA 244 the definition of “cigarette” includes “roll-your-own” (RYO) tobacco (.09 ounces of RYO tobacco equals 1 cigarette).

The definition of “tobacco product manufacturer” under PA 244 includes the manufacturer of cigarettes (including RYO tobacco) intended to be sold in the United States, and the first purchaser for sale within the United States of cigarettes (including RYO tobacco) that were not intended for United States sale.

In order to determine accurately the number of units of cigarettes (including RYO tobacco) manufactured by NPMs and sold within Michigan, the Department requires that licensed Wholesalers and Unclassified Acquirers file a monthly Schedule K with their Tobacco Products Tax Return. The Schedule K is used to report the number of cigarette sticks and volume (pounds or kilograms) of RYO tobacco acquired or imported, the name of the NPM, and the brands of products acquired or imported. Returns to the NPM or exports to other states are also reported and deducted from acquisitions and imports to arrive at the units subject to escrow by the NPM.

The Department has developed a Web site that provides, directly or by reference to other sites, the names of participating manufacturers and nonparticipating manufacturers who have complied with the requirements, as well as other pertinent information related to PA 244 and the MSA. The web address is [www.michigan.gov/tobaccotaxes](http://www.michigan.gov/tobaccotaxes).

Direct questions about the filing of Schedule K to Customer Contact Division, Tobacco Tax Unit, at (517) 636-4630. Technical questions concerning the MSA and PA 244 should be directed to Office of Policy and Research Development at (517) 373-9600.

## **THE EQUITY ASSESSMENT PRE-PAYMENT REQUIREMENT**

PA 327 of 1993 was amended on January 8, 2004. The amendment required all Non-Participating Manufacturers who anticipate selling their cigarettes and roll-your-own products in Michigan to make a pre-payment equity assessment by February 9, 2004, for 2004 sales. The bill also requires Non-Participating Manufacturers to make additional annual payments by March 1 of each year, based on the anticipated cigarette and roll-your-own tobacco sales for that calendar year.

The equity assessment is based on the estimated tobacco sales for the current year or a minimum payment of \$10,000 to be paid prior to commencing selling cigarette and roll-your-own tobacco products into the state of Michigan.

The amendment to PA 327 states that a stamping agent shall not affix a State of Michigan stamp to any package of cigarettes or shipping container of roll-your-own tobacco of a non-participating manufacturer unless the manufacturer is listed on the Department's Web site at [www.michigan.gov/tobaccotaxes](http://www.michigan.gov/tobaccotaxes).

The Department may seize or confiscate from any person a non-participating manufacturer's cigarettes or roll-your-own tobacco products in that person's possession that are in violation of this Act.

## **ELECTRONIC FILING OF TOBACCO TAX RETURNS**

The State of Michigan will be offering electronic filing of tobacco tax returns beginning the fall of 2004. All current tobacco tax returns are being updated to accommodate the electronic filing of the returns.

To obtain current forms and get updates regarding electronic filing, visit Treasury's Web site at [www.michigan.gov/tobaccotaxes](http://www.michigan.gov/tobaccotaxes).